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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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10 Howard Cochran,) No. CV 11-2098-PHX-RCB (JFM)
11 Plaintiff,) **ORDER**
12 vs.)
13 Christopher Stavris,)
14 Defendant.)
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16 Plaintiff Howard Cochran, who is confined in the Fourth Avenue Jail in Phoenix,
17 Arizona, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983. In an Order filed
18 on January 23, 2012, the Court dismissed the Complaint and this action for failure to state
19 a claim *without* leave to amend because Plaintiff could not amend the Complaint to state a
20 claim. (Doc. 10.) Judgment was entered the same day. (Doc. 12.)

21 Plaintiff has filed a motion to amend the Complaint. (Doc. 13.) That motion will be
22 denied for three reasons. First, this action has been dismissed and judgment entered.
23 Second, as noted above, the Court has already concluded that his Complaint in this case
24 cannot be amended to state a claim.¹ Third, Plaintiff did not submit a proposed amended
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26 ¹ In his Complaint, Plaintiff sued his former criminal defense attorney for violations
27 of his constitutional rights. As the Court previously stated:

28 A prerequisite for any relief under 42 U.S.C. § 1983 are allegations to support
that a defendant acted under the color of state law. Whether an attorney

1 complaint with his motion, which is required in order to seek leave to amend. For all three
2 reasons, Plaintiff's motion for leave to file an amended complaint will be denied.

3 **IT IS ORDERED** that Plaintiff's motion for leave to file an amended complaint is
4 **denied.** (Doc. 13.)

5 DATED this 1st day of February, 2012.

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9 Robert C. Broomfield
Senior United States District Judge

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26 representing a criminal defendant is privately retained, a public defender, or
27 court-appointed counsel, he does not act under color of state law. See Polk
28 County v. Dodson, 454 U.S. 312, 317-18 (1981); Miranda v. Clark County,
Nevada, 319 F.3d 465, 468 (9th Cir. 2003) (*en banc*).

Doc. 10 at 4.